

## Unofficial and not binding translation

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State Ordinance containing regulations pertaining to the supervision of trust service providers (State Ordinance on the Supervision of Trust Service Providers)  
(AB 2009 no. 13)  
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IN THE NAME OF THE QUEEN!

THE GOVERNOR of Aruba,

Whereas:

with a view to maintaining the integrity of the international financial services in Aruba and increasing the quality of this form of service, it is desirable to set rules pertaining to the supervision of enterprises and institutions working in Aruba, which perform asset management tasks for third parties on a confidential basis;

Having heard the Advisory Council, and in consultation with Parliament, has adopted the following State Ordinance:

### Section 1. Definition of terms

#### Article 1

For the purposes of this State Ordinance and the provisions made pursuant thereto, the following terms shall mean:

trust service provider: an enterprise or institution that performs one or more of the following activities on a commercial basis:

- a. to act as the founder, manager, or liquidator of legal entities or bodies;
- b. to act as a local representative, director, or legal representative of legal entities or bodies;
- c. to make available natural persons living in Aruba or legal entities domiciled in Aruba as local representative, director, or legal representative;

	d. to be the trustee of a trust;
	e. to liquidate or arrange for third parties to liquidate legal entities or bodies;
	f. to sell or act as an intermediary in the sale of legal entities or bodies;
	g. other activities to be designated by State Decree containing General Administrative Orders;
group:	an economic entity in which natural persons, legal entities, and bodies are affiliated;
body:	a legal entity not being a natural person;
trust:	a trust within the meaning of the Convention on the Law Applicable to Trusts and their Recognition ('Trb.' [Treaty Series] 1985, 141);
ultimate beneficiary:	an ultimate beneficiary as referred to in Article 1, first paragraph, of the State Ordinance on the Prevention and Suppression of Money Laundering and Terrorist Financing (AB 2011 No. 28);
qualifying holding:	a direct or indirect interest of at least ten percent of the subscribed share capital or a comparable interest, or the ability to exercise directly or indirectly at least ten percent of the voting rights or any comparable control;
money laundering:	a crime as referred to in Articles 2:404 , 2:405, and 2:406 of the Criminal Code of Aruba ;
terrorist financing:	the crime referred to in Article 2:55 of the Criminal Code of Aruba;
license:	a license as referred to in Article 2, first paragraph
Bank:	the Central Bank of Aruba;
Minister:	the Minister of Finance;
representative: organization	the representative organization referred to in Article 30.

## Section 2. Requirements to conduct the business of a trust service provider

### Article 2

1. It is prohibited to conduct the business of a trust service provider in or from Aruba without a license for that purpose issued by the Bank.

2. No license will be issued other than to a public limited company of which all shares are registered.

3. The Business (Establishment) Ordinance (AB 1990 no. GT 55) does not apply to trust service providers.

### Article 3

1. An application submitted to the Bank for the issue of a license must be accompanied by the following information, respectively, documents:

- a. a copy of the deed of incorporation, containing the applicant's articles of incorporation;
- b. the identity, background, and a certificate of good conduct, as well as other data to be determined by the Bank, based on which the Bank can ascertain the integrity and suitability of the directors and other persons who determine or co-determine the policy of the enterprise or institution;
- c. the identity, background, and a certificate of good conduct, as well as other data to be determined by the Bank, based on which the Bank can ascertain the integrity and suitability of the members of the board of supervisory directors or of the body of the enterprise or institution that has a task similar to that of the board of supervisory directors;
- d. the identity, background, and a certificate of good conduct, as well as other data to be determined by the Bank, based on which the Bank can ascertain the integrity of those who hold a qualifying holding in the enterprise or institution and, if the holder of a qualifying holding is a legal entity, of the persons who determine or co-determine the policy of this legal entity, as well as the extent of the qualifying holding in question;
- e. the envisaged management, including the measures to promote and maintain ethical business operations, in particular to prevent money laundering and the financing of terrorism, the administrative organization and internal controls;
- f. an opening balance sheet or annual financial statements;
- g. the name and address of the applicant, as well as the address and place of business of any branch offices.

2. If the applicant is a member of a group of companies, information must also be submitted about the formal and factual control structure of the group.

3. If the applicant intends to conduct its activities partly through the intermediation of one or more public limited companies of which the applicant holds all shares, and the applicant has control over those companies, the application for the issue of a license will also relate to these public limited companies. Paragraph 1 subparagraph a. through e. and g., as well as Article 2, paragraph 2, will then apply *mutatis mutandis*.

4. If after receiving the information and documents referred to in paragraph 1, respectively, paragraphs 2 and 3, the Bank considers it necessary that further information and documents relating to the application or the business to be conducted be provided, it will give the applicant the opportunity to provide the relevant information and documents within a reasonable period to be set by the Bank.

5. The Bank will decide within thirteen weeks after receipt of the information and documents referred to in paragraph 1, respectively, paragraphs 2 and 3, or within

thirteen weeks after receipt of the further information and documents referred to in paragraph 4.

#### Article 4

1. The Bank shall grant a license, unless:
  - a. the Bank is of the opinion that the applicant does not or will not be able to comply with Article 6, first paragraph;
  - b. the Bank is of the opinion that:
    1. the integrity of one or more persons, as referred to in Article 3, first paragraph, subparagraphs b, c, and d, is not beyond doubt;
    2. the Bank is of the opinion that the suitability of one or more persons as referred to in Article 3, first paragraph, subparagraphs b and c, is insufficient, individually or jointly, in connection with the conduct of the business of a trust service provider, or the performance of the duties in question at the trust service provider;
    3. it is likely that the applicant will act contrary to public morality or public order, or the data provided give reason to suspect that a license will be used for illegal purposes;
    4. taking into account the data, referred to in Article 3, first through fourth paragraph, the applicant will not be able to carry out its intentions or to comply with its obligations pursuant to this State Ordinance, the State Ordinance on the Prevention and Suppression of Money Laundering and Terrorist Financing, or any other statutory regulation concerning the prevention and suppression of money laundering and terrorist financing;
    5. the group to which the applicant belongs has a formal or factual control structure that is so obscure that it constitutes or could constitute an obstacle to the adequate exercise of supervision of the applicant;
  - c. taking into account the data, referred to in Article 3, first paragraph, subparagraph a, or second paragraph, the applicant intends to perform activities that fundamentally differ from those of a trust service provider;
  - d. the applicant has a director or an attorney-in-fact that is not a resident of Aruba.
2. The Bank is authorized to set restrictions on a license and attach rules and conditions, if it is of the opinion that this is desirable owing to facts and circumstances relating to the applicant.
3. In departure from the first paragraph, subparagraph a, the Bank will be authorized to grant the applicant full or partial exemption from one or more rules of Article 3, paragraph 1, or Article 5, if the Bank is of the opinion that the nature of the work to be performed by the applicant justifies this, or that doing so otherwise meets the interest this State Ordinance is intended to protect.

## Article 5

A trust service provider shall not appoint any persons to positions as referred to in Article 3, first paragraph, subparagraphs b or c, without the prior permission from the Bank. Articles 3, first paragraph, opening words, and subparagraphs b and c, and fifth paragraph, and 4, second paragraph, shall be equally applicable.

## Article 5a

A qualifying holding in a trust service provider shall not be modified by means of transfer, acquisition, or otherwise without the prior permission from the Bank. Articles 3, first paragraph, opening words, and subparagraph d, and the fifth paragraph, and 4, second paragraph, shall be equally applicable.

## Article 6

1. A trust service provider shall pursue adequate policy for an ethical conduct of its business and shall set up its operational management in such a way that the ethical conduct of its business is safeguarded.

2. At any rate, the policy and the operational management, referred to in the first paragraph, shall be aimed at:

- a. the countering of conflicts of interests;
- b. the suppression of money laundering and terrorist financing;
- c. the compliance with rules laid down by or pursuant to the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing (AB 2011 No. 28) or other statutory regulations on the prevention and combating of money laundering and terrorist financing;
- d. the prevention of punishable offenses or other violations of the law by the trust service provider or its employees, which could prejudice the confidence in the enterprise or in the financial markets;
- e. the countering of relationships with clients or other business relationships, which could prejudice the confidence in the enterprise or in the financial markets;
- f. the countering of other acts by the trust service provider or its employees, which are in conflict with generally accepted standards according to unwritten law to such an extent, that this could prejudice the confidence in the trust service provider or in the financial markets.

3. The Bank may give trust service providers directives with regard to the ethical conduct of the business and the way in which it is determined whether the integrity of a person, referred to in Article 4, first paragraph, subparagraphs a, b, and c, is beyond doubt, and whether this person is suitable, and which facts and circumstances are to be taken into consideration for that purpose.

4. Insofar as necessary for the performance of the duty imposed on it by this State Ordinance, the Bank may give trust service providers entered in the register directives with regard to the accounting procedures and operational management, including the financial accounts and internal control.

5. The directives, referred to in the third paragraph, may be related to the implementation of the regulations of other State Ordinances.

6. The Bank may give a trust service provider instructions with regard to the way on which directives as referred to in the third and fourth paragraph shall be implemented.

## Article 7

1. Annually, before 1 July, a trust service provider must submit an annual report to the Bank relating to the preceding financial year.

2. Having heard the representative organization, the Bank may give trust service providers directives with regard to the content, the model, and the principles of the financial statements, referred to in the first paragraph.

3. The financial statements, referred to in the first paragraph, shall be accompanied by a statement of the trust service provider that the availability of the data, referred to in Article 8, on January 1 of the current financial year has been assessed.

4. In the statement referred to in the third paragraph, the trust service provider shall also state that, based on the assessment, it has been established that the data, referred to in Article 8, with regard to the legal entities or bodies as regards which it performs its activities are available on January 1 of the current financial year. The statement also relates to the legal entities or bodies to which the trust service provider provides management services. If this cannot be stated without reservation, this shall be explained in detail in the statement, specifying the legal entities or bodies to which the reservation is related.

## Section 3. Recording of information

### Article 8

1. A trust service provider must have at its disposal at all times information recorded in writing or on other data carriers on the identity, assets and background of the ultimate beneficial owners for whom the trust service provider performs its work. This includes at any rate:

- a. has knowledge of the origin of the capital transferred to the legal entity or body;;
- b. has knowledge of the relevant parts of the structure of the group to which the legal entity or body belongs, and of the purpose for which the structure was created;
- c. in its capacity as trustee, knows the identity of the settlor of a trust;

2. The Bank may give instructions regarding the manner in which the information referred to in the first paragraph must be recorded.

3. A trust service provider must retain the information referred to in the first paragraph for a period of at least ten years, counting from the time at which the trust service provider performed its work for the ultimate beneficial owner in question.

## Article 9

1. If a trust service provider conducts the management of, or acts as managing director or legal representative of a legal entity or body, of which the shares are bearer, and these shares are not or not all of these shares are kept in custody at the trust service provider:

- a. the trust service provider shall always have knowledge of the place where these shares are kept in custody, and it shall record this knowledge in an accessible manner;
- b. the trust service provider shall guarantee that the shares are kept in custody based on a written agreement between the custodian and the owner or owners of the shares, and that it disposes of a copy of that agreement;
- c. the trust service provider shall guarantee that both the custodian and the trust service provider are immediately informed in writing of each alienation of the shares, stating at least the name and address of the acquirer.

2. The following parties may act as custodians of the bearer shares, referred to in the first paragraph:

a. in Aruba:

- 1°. financial institutions and domestic branches of the trust service provider or domestic corporations affiliated to the trust service provider within a group supervised by the Bank;
- 2°. civil-law notaries;

b. outside Aruba:

- 1°. foreign branches of the trust service provider or foreign corporations affiliated to the trust service provider within a group, provided they are subject to internationally accepted standards for the prevention and suppression of money laundering and terrorist financing and are effectively supervised for compliance with these standards in the country of domicile;
- 2°. other trust service providers, banks, and other financial institutions, provided they are subject to internationally accepted standards for the prevention and suppression of money laundering and terrorist financing and are effectively supervised for compliance with these standards in the country of domicile;
- 3°. civil-law notaries or comparable professionals, provided they are subject to internationally accepted standards for the prevention and suppression of money laundering and terrorist financing and are effectively supervised for compliance with these standards in the country of domicile.

## Article 10

A trust service provider is not allowed to perform activities for a legal entity or body as referred to in Article 9, first paragraph, if that paragraph has not been fulfilled. If the trust service provider already has a business relationship for the benefit of a legal entity or body as referred to in Article 9, first paragraph, and that first paragraph has not been fulfilled, the trust service provider shall end that business relationship and report this to the Bank.

### Section 4. Administrative sanctions

## Article 11

1. For the violation of the provisions laid down by or pursuant to Articles 2, first paragraph, 4, second and third paragraph, 5, 5a, 6, 7 through 10, 17, 19, 25, third, fourth, and fifth paragraph, 26 and 28, sixth paragraph, the Bank may impose a penalty charge order.

2. For the offenses referred to in the first paragraph, the Bank may also impose an administrative fine not exceeding Afl. 1,000,000.- per separate violation.

3. Violations can be committed by natural persons and legal entities. Article 1:127, second and third paragraph, of the Criminal Code of Aruba shall be equally applicable.

4. The Bank shall adopt guidelines for the exercise of the powers, referred to in the first and second paragraph, and shall record them in a policy document. The policy document shall at any rate contain a description of the procedures to be followed when exercising the powers, referred to in the first and second paragraph. The policy document, referred to in the first sentence, as well as all modifications to be introduced to same afterwards shall be published in advance in a manner to be determined by the Bank.

5. By State Decree containing General Administrative Orders, rules shall be laid down with regard to the principles for the determination of the amount of the penalty charge order and the administrative fine per violation. The violations shall be classified into categories based on the severity of the violation, with the corresponding basic amounts, minimum amounts, and maximum amounts.

6. Forfeited penalties and administrative fines shall accrue to the Bank.

## Article 11a

1. If, at the time of committing a violation, a period of five years has not yet expired since an administrative fine was imposed on the violator for a similar violation, the maximum amount of the administrative fine, referred to in Article 11, second paragraph, shall be Afl. 2,000,000.- for each separate violation.

2. Notwithstanding Article 11, second paragraph, the Bank may set the amount of the administrative fine at a maximum of twice the amount of the benefit obtained by the violator as a result of the violation, if his benefit exceeds Afl. 1,000,000.-.



## Article 11b

1. If the Bank intends to impose an administrative fine, it shall notify the person concerned thereof, stating the grounds on which the intention is based.
2. The Bank shall give the person concerned the opportunity to express his view, either in writing or orally, within a reasonable period, before imposing the administrative fine by decision.
3. If, after the person concerned has expressed his view, the Bank decides that no administrative fine will be imposed for the violation, the person concerned shall be informed hereof in writing.

## Article 11c

1. At the request of the violator, the Bank may cancel a penalty charge order, suspend the duration thereof for a specific period, or reduce the penalty, in case the violator is permanently or temporarily unable in whole or in part to comply with his obligations.
2. Furthermore, at the request of a violator, the Bank may cancel a penalty charge order, if the decision has been effective one year without having forfeited the penalty.

## Article 12

Anyone in respect of whom the Bank has performed an act from which he can reasonably infer that an administrative fine will be imposed on him by or pursuant to this State Ordinance, will not be required to make any statement in relation to this. He will be informed to this effect before he is requested orally to provide information.

## Article 13

1. The administrative fine will be due within six weeks of the date of the order by which it was imposed.
2. Statutory interest will be added to the administrative fine, calculated from the day on which six weeks have elapsed since the decision was published.

## Article 13a

1. If a forfeited penalty or fine has not been paid within the period set by the Bank, the infringer shall be demanded in writing to pay the amount of the penalty or the fine as yet within two weeks, increased by the costs of the demand.

2. In the absence of payment, the amount and the costs as referred to in the first paragraph, shall be increased by the collection costs, collected by the Bank by way of a writ of execution.
3. The writ of execution shall be published by serving a process as referred to in the Code of Civil Procedure of Aruba and shall constitute entitlement to enforcement, which may be enforced while applying the provisions of this Code.
4. The writ of execution shall in any case state:
  - a. the words “writ of execution” in the heading;
  - b. the amount of the collectable principal sum, increased by the statutory interest due;
  - c. the decision or the statutory provision from which the amount due arises;
  - d. the costs of the demand and of the writ of execution;
  - e. that it may be enforced for the account of the infringer.
5. For a period of six weeks after the date of service, an objection may be lodged against the writ of execution. Objection shall be lodged against the Bank with the Court and in the manner stipulated for filing claims. Provided it has been lodged in a timely fashion and in the prescribed manner, the objection shall suspend the enforcement.

#### Article 14

1. The authority to impose an administrative fine will lapse:
  - a. if criminal prosecution has been instituted for the infringement and the examination in court has started, or the right to prosecute has lapsed pursuant to Article 1:149 of the Criminal Code of Aruba ;
  - b. three years from the day on which non-compliance with the rule is discovered.
2. The period referred to in the first paragraph, subparagraph b, will be interrupted by publication of the order by which the administrative fine is imposed.
3. The right to institute criminal proceedings shall lapse, if an administrative fine was already imposed on the subject matter for the same infringement.
4. The Bank and the Public Prosecution Service shall consult periodically on the choice between imposing an administrative fine or criminal-law sanction to avoid unlawful concurrence of those sanctions.

#### Article 15

1. In departure from Article 22, paragraph 1, for the purpose of protecting the financial system and preventing money laundering and the financing of crimes, which have been criminalized on the basis of international obligations relating to counterterrorism, the Bank will be authorized to publish the offence for which the order subject to an incremental penalty was imposed, the infringed rule and the name and address of the person on whom the administrative fine was imposed.

2. The Minister may set rules on the exercise of the authority referred to in paragraph 1.

3. The order to publish will enter into effect on the day on which the offence was made public, without the effect being suspended for the duration of the period for appeal or, if appeal has been brought, of the appeal, if the address of the person concerned is not known and the address cannot be obtained either through reasonable efforts.

#### Article 16

1. The Bank must keep records of the acts conducted in the context of an investigation prior to imposing an administrative fine. It must list the persons who performed the acts in those records.

2. The use of the powers conferred in this section must be mentioned in the report referred to in Article 29.

#### Article 16a

1. The Bank may, in view of the interest this State Ordinance seeks to protect, issue a public warning in case of infringement of any prohibitory provision of this State Ordinance, if necessary, stating the considerations that led to the warning.

2. The Minister may lay down rules concerning the exercise of the power as referred to in the first paragraph.

3. The decision to issue a public warning shall enter into effect on the date on which the public warning has been published, without suspending the effect for the duration of the appeal period or, if an appeal has been lodged, of the appeal, if no address of the subject matter is known, and the address also cannot be obtained by reasonable efforts.

#### Article 16b

1. If the Bank intends to issue a public warning, it shall notify the person (legal/natural) concerned in writing of the intended decision and shall give him the opportunity to express his views.

2. The Bank may decide not to apply the first paragraph, if the urgency of the matter dictates otherwise, or if no address of the person (legal/natural) concerned is known, and the address also cannot be obtained by reasonable efforts.

### Section 5. Special rules

#### Article 17

1. The Bank may, if in its opinion:

- a. trust service provider does not comply with the obligations imposed on it by or pursuant to this State Ordinance, the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing or any other statutory regulation on the prevention and combating of money laundering and terrorist financing, or
  - b. a circumstance as referred to in Article 4, first paragraph, arises at a trust service provider,
- give the trust service provider in question an instruction to follow a specific line of conduct particularly in relation to subjects to be indicated, in order to ensure that those rules are complied with within a period to be set by the Bank.

2. The Bank may give persons as referred to in Article 3, first paragraph, subparagraph d, to whom the circumstance of Article 4, first paragraph, subparagraph b, turns out to apply, an instruction to follow a certain course of action with regard to specified issues.

## Article 18

1. The Bank will revoke a license if:

- a. the trust service provider requests this by registered letter;
- b. such incorrect information was provided in the application for the license that, if the correct or all information had been known, the license would not have issued;
- c. a trust service provider has been declared insolvent;
- d. the public limited company for which the license was issued has ceased to perform the activities of a trust service provider.

2. The Bank may revoke a license if:

- a. performance of the activities of a trust service provider has not started within six months of its issue;
- b. a trust service provider has complied inadequately or not at all with the requirements of Articles 8 through 10;
- c. a trust service provider or one or more of its officers have otherwise acted in conflict with the provisions laid down by or pursuant to this State Ordinance;
- d. the trust service provider or one or more of its directors act in conflict with a statutory rule, public order or public morals in such a way that maintaining the license cannot reasonably be required;
- e. one or more directors have been irrevocably convicted for money laundering or terrorist financing, the commission of a tax offense or an economic offense for which pre-trial detention is allowed in Aruba;
- f. the Bank is of the opinion that a trust service provider has not followed an instruction as referred to in Article 17 adequately or at all;
- g. after the date on which the license was granted, a circumstance as referred to in Article 4, first paragraph, subparagraph e, arises at a trust service provider;
- h. the Bank is of the opinion that a trust service provider does not or not sufficiently comply with the rules laid down by or pursuant to the State Ordinance on the Prevention and Combating of Money Laundering and Terrorist Financing or any

other statutory regulation on the prevention and combating of money laundering and terrorist financing.

3. An order to revoke a license must be reasoned and contain the time the revocation takes effect. After the order has become irrevocable, the Bank will publish the order in the Official Gazette of Aruba, as well as in at least two daily newspapers published in Aruba.

#### Article 19

1. From the time referred to in Article 18, paragraph 3, first sentence, the public limited company whose license was withdrawn must terminate all current contracts for performing the work of a trust service provider, and must settle them within a period to be determined by the Bank. The Bank may extend this period once at the written request of the public limited company in question.

2. Without prejudice to paragraph 1, for the purposes of this State Ordinance, during the settlement period, the public limited company will be put on par with a trust service provider in possession of a license.

#### Section 6. The register

#### Article 20

1. The Bank must keep a register in which all trust service providers are entered that have obtained a license.

2. The register will be organized in a manner to be determined by the Bank and will be available for inspection by anyone free of charge at the Bank's office.

3. The Bank will provide for cancellation in the register of all trust service providers whose licenses have been revoked.

#### Article 21

1. The Bank will publish the entry or cancellation in the register in the Official Gazette of Aruba and in at least two daily newspapers published in Aruba.

2. In January of each year, the Bank will place a copy of the register as at 31 December of the preceding year in the Official Gazette of Aruba and in at least two daily newspapers published in Aruba.

#### Section 7. Nondisclosure and information exchange

#### Article 22

1. Anyone who performs or performed any duty for the purposes of this State Ordinance or a decision made pursuant to this State Ordinance is not allowed to use data or information provided or obtained pursuant to this State Ordinance or received from a foreign body as referred to in Article 23, further or differently or to make it known further or differently than required for the performance of his duty or by this State Ordinance.

2. Notwithstanding the first paragraph, the Bank shall be authorized to make statements by using data or information obtained in the performance of its duty pursuant to this State Ordinance, provided these data or that information cannot be traced back to separate persons or institutions.

3. The first paragraph shall not affect the obligation to make a statement, in accordance with the Code of Criminal Procedure of Aruba (AB 1996 No. 75), as a witness in criminal cases with regard to data or information obtained in the performance of the duty assigned to him pursuant to this State Ordinance. Likewise, it shall not affect the obligation to make a statement, in accordance with the Code of Civil Procedure of Aruba (AB 2005 No. 34), as a witness or a party in a personal appearance of parties in civil cases with regard to data or information obtained in the performance of the duty assigned to him pursuant to this State Ordinance, and this on the understanding that such an obligation shall only apply, insofar as it concerns a trust service provider that has been declared bankrupt or that has been dissolved by court decision, and that it does not apply to data or information related to enterprises or institutions that are or were involved in an attempt to enable the trust service provider in question to continue its business.

## Article 23

1. Notwithstanding Article 22, first paragraph, the Bank shall be authorized to exchange data and/or information obtained in the performance of the duties assigned to it pursuant to this State Ordinance with bodies designated by foreign public authorities, which are charged with:

- a. the supervision of persons and institutions that are active in the financial markets, or
- b. the supervision of the compliance with legislation and regulations concerning the prevention and suppression of money laundering and terrorist financing.

2. The power, referred to in the first paragraph, shall not be exercised, if:

- a. the purpose for which the data or information will be used has not been sufficiently specified;
- b. the contemplated use of the data or information is not in line with the supervision of financial markets or persons working in these markets;
- c. provision of the data or information is contrary to public order or the laws of Aruba;
- d. the secrecy of the data or information has not been sufficiently guaranteed;
- e. provision of the data or information is or could be contrary in reason to the interests this State Ordinance intends to protect;

- f. it has not been sufficiently guaranteed that the data or information will not be used for a purpose other than for which they are provided.
2. Insofar as the data or information, referred to in the first paragraph, have been obtained from a foreign supervisory body, the Bank shall not provide them to another foreign supervisory body, unless the body from which the data or information have been obtained approved the provision of the data and information and, if applicable, approved the use for a purpose other than for which the data or information have been provided.
3. If a foreign supervisory body requests the Bank to use data or information, which the Bank provided pursuant to the first or second paragraph, for a purpose other than for which they have been provided, the Bank shall only comply with that request, if:
- a. the contemplated use is not contrary to the first or second paragraph; or
  - b. the supervisory body concerned could obtain these data or information from Aruba in a way other than provided for in this State Ordinance, with due observance of the applicable legal procedures.

#### Article 24

1. The Bank shall be authorized to consult the registers of and to ask all information from the Chamber of Commerce and Industry, the Department of Land Surveying and Real Estate Registration, the Civil Registry, as well as other bodies to be designated by State Decree containing General Administrative Orders.
2. The bodies mentioned in the first paragraph shall give the Bank all cooperation free of charge and within the reasonable period set by it, as requested pursuant to the first paragraph.
3. Notwithstanding Article 22, first paragraph, the Bank shall be authorized to provide data or information obtained in the performance of the duties assigned to it pursuant to this State Ordinance to persons and bodies charged with the exercise of criminal-law powers pursuant to the Code of Criminal Procedure of Aruba.

#### Article 25

1. For the performance of its duty pursuant to this paragraph, the Bank may demand data or information from anyone, if this is necessary for the performance of the duty of a body referred to in Article 23, first paragraph. Article 28, third through sixth paragraph, shall be equally applicable.
2. At the request of a body as referred to in the first paragraph, the Bank may ask data and information from or conduct an investigation or cause same to be conducted at a trust service provider, or at anyone who can be suspected in reason of disposing of data or information that may be important to the requesting body.
3. The person who has been asked for data or information as referred to in the second paragraph shall provide same within a reasonable period to be set by the Bank.

4. The person at whom an investigation as referred to in the second paragraph is conducted shall give all cooperation necessary for the proper conduct of that investigation. Article 28, third and fourth paragraph, shall be equally applicable.

5. The Bank may allow that an officer of a body as referred to in Article 23, first paragraph, participates in the implementation of a request as referred to in the second paragraph. The officer referred to in the first sentence shall comply with the instructions of the employee of the Bank, charged with the implementation of the request. The order referred to in the fourth paragraph shall also apply to the service provider referred to in the first sentence.

## Section 8. Special provisions

### Article 26

In a State decree containing general provisions, further rules may be laid down to implement this State Ordinance.

### Article 27

Having heard the Bank, costs involved in the implementation of this State Ordinance may be recovered from the trust service providers, according to rules to be laid down in a State decree containing general provisions.

### Article 28

1. The persons employed by the Bank and designated for this purpose by the President of the Bank shall be charged with supervising the compliance with the provisions laid down by or pursuant to this State Ordinance. Such State Decree shall be announced in the Official Gazette of Aruba.

2. The persons designated pursuant to the first paragraph may exercise the supervision in a risk-oriented manner. They shall report on the exercise of the powers mentioned in the third paragraph to the President of the Bank or to the executives within the Bank to be designated in writing by the President.

3. The employees of the Bank designated according to paragraph 1 will be authorized, only to the extent reasonably necessary for the fulfilment of their duties:

- a. to request all information;
- b. to request access to all business books, records and other information carriers and to make transcripts or copies thereof, or take them along temporarily;
- c. to enter all premises, except for homes without explicit permission from the occupant, accompanied by persons designated by them.



4. If necessary, the access to premises as referred to in the third paragraph, subparagraph c, will be gained with the aid of the police.

5. The State Decree on General Provisions for the Exercise of Regulatory Powers (AB 1998 no. 70) or the State decree replacing this, will apply mutatis mutandis to the way in which the persons designated pursuant to paragraph 1 perform their duties.

6. Everyone shall give the persons, designated by virtue of the first paragraph, the cooperation required pursuant to the second paragraph.

## Article 29

The Bank must report to the Minister annually before 1 July of the work it has performed in the context of this State Ordinance.

## Article 30

In rules laid down by the Minister, a representative organization of trust service providers may be designated in relation to the implementation of this State Ordinance.

## Section 9. Penal and final provisions

### Article 31

1. The person who intentionally violates the regulation, condition, or limitation laid down by or pursuant to Articles 2, first paragraph, 4, second and third paragraph, 5, 5a, 6, 7 through 10, 17, 19, 25, third, fourth, and fifth paragraph, 26 and 28, sixth paragraph, shall be punished with imprisonment not exceeding six years, or with a fine of the sixth category.

2. The person who does not intentionally violate a regulation, condition, or limitation laid down by or pursuant to the Articles mentioned in the first paragraph shall be punished with imprisonment not exceeding one year, or with a fine of the fourth category.

3. The offenses referred to in the first paragraph are crimes; the offenses referred to in the second paragraph are violations.

### Article 32

In Articles 155a, paragraph 6, first sentence, and 155kk, paragraph 1, subparagraph a, of the Commercial Code of Aruba (AB 1990 no. GT 50) the phrase “Article 2 of the Business (Establishment) Ordinance” will be replaced each time by:

Article 2, paragraph 1, of the State Ordinance on the Supervision of Trust Service Providers.

### Article 33

1. This State Ordinance will enter into effect at a time determined by a State decree. The prohibition referred to in Article 2, first paragraph will not apply to trust service providers which are registered as such in the Commercial Register for one year from the date of its entry into effect.

2. It can be cited as the State Ordinance on the Supervision of Trust Service Providers.